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10/709,434 05/05/2004 Niall R. Lynam DON01 P-1152 3433

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| EXAMINER |
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AMARI, ALESSANDRO V

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| ART UNIT | PAPER NUMBER |
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2872

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
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3 MONTHS 04/13/2007 PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/709,434 | LYNAM, NIAL R. | |
| | Examiner | Art Unit | |
| | Alessandro Amari | 2872 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)-

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt US 6,030,084 in view of Gillich et al US 6,709,119.

In regard to claim 1, Schmidt teaches (see for example, Figures 2, 3) a wide angle reflective element for a mirror assembly for a vehicle comprising a polymeric mirror substrate (12) having an exterior surface comprising a less curved inboard surface or surface and a more curved outboard surface as shown in Figures 2 and 3, said polymeric mirror substrate comprising a polymeric resin material as described in column 3, lines 39-50, said substrate having a reflector (15) disposed on a surface thereof to provide a reflective element for a vehicle mirror assembly.

Regarding claim 2, Schmidt et al teaches that said reflector is disposed at an inner surface (14) of said substrate opposite said exterior surface as shown in Figure 2.

However, in regard to claim 1, Schmidt does not teach a thin at least partially flexible glass sheet, said thin at least partially flexible glass sheet having an attaching surface opposed to and adhered to said exterior surface of said polymeric mirror substrate so as to provide an anti-abrasion sheet at said outboard and inboard surfaces

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of said exterior surface of said polymeric mirror substrate, said thin at least partially flexible glass sheet conforming to said exterior surface of said polymeric mirror substrate when adhered thereto, said thin at least partially flexible glass sheet having a thickness of less than approximately 0.8 mm.

In regard to claim 1, Gillich et al teaches (see Figure 1) a thin at least partially flexible glass sheet (101) said thin at least partially flexible glass sheet having an attaching surface opposed to and adhered to said exterior surface so as to provide an anti-abrasion sheet at said outboard and inboard surfaces of said exterior surface of said polymeric mirror substrate, said thin at least partially flexible glass sheet conforming to said exterior surface of said polymeric mirror substrate when adhered thereto, as described in column 1, lines 56-67, column 2, lines 1-5 and column 8, lines 28-37, said thin at least partially flexible glass sheet having a thickness of less than approximately 0.8 mm having a thickness of less than approximately 0.8 mm as described in column 2, lines 32-39. Although the prior art does not specifically disclose the claimed partially flexible glass sheet, this is seen to be an inherent teaching of the device since glass sheets thinner than 100 μm show bending properties and are therefore flexible. Furthermore, the applicant's specification does not define the term "partially flexible" in any terms of degree, so the reference is taken to read on this feature.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the glass film as taught by Gillich et al in the substrate of

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Schmidt in order to provide for a protective layer that protects the underlying layers from mechanical damage.

Regarding claims 3 and 4, Schmidt discloses that said substrate is cut from a molded or extruded or cast strip or sheet, said glass sheet being laminated to said strip cut from said strip or sheet, at least two substrates being or sheet as described in column 3, lines 39-65 and regarding claim 4, Schmidt discloses wherein said reflector comprises a reflective film applied to said strip or sheet on an inner surface of said substrates opposite said exterior surface as described in column 3, lines 39-65.

Applicant should note that claims 3 and 4 are product-by-process claims and in product-by-process claims, "once a product appearing to be substantially identical is found and a 35 U.S.C. 102/103 rejection [is] made, the burden shifts to the applicant to show an unobvious difference." MPEP 2113. This rejection under 35 U.S.C. 102/103 is proper because the "patentability of a product does not depend on its method of production."

In re Thorpe, 227 USPQ 964, 966 (Fed. Cir. 1985).

Regarding claim 5, Schmidt teaches (see Figure 2) wherein said reflector comprises a reflective film (15) applied to an inner surface (14) of said substrate opposite said exterior surface as described in column 51-57.

Regarding claim 11, Schmidt discloses that said reflective element is adapted for use as an exterior rearview mirror assembly as described in column 1, lines 15-21.

Regarding claim 8, Schmidt in view of Gillich et al discloses the claimed invention as set forth above except for the rearrangement of the reflective film being applied to the exterior surface of the substrate, said glass film being applied to an exterior surface

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of the reflective film. It would have been obvious to one having ordinary skill in the art at the time the invention was made to rearrange the reflective film to be applied to the exterior surface of the substrate, since it has been held that a mere rearrangement of elements without modification of the operation of the device involves only routine skill in the art. One would have been motivated to rearrange the reflective film to be applied to the exterior surface for the purpose of easier and more efficient manufacturing of the reflective element. *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950)

3. Claims 6, 7, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt US 6,030,084 in view of Gillich et al US 6,709,119 and further in view of Wheatley et al US 5,262,894.

Regarding claims 6, 7, 9 and 10, Schmidt in view of Gillich et al teaches the invention as set forth above but regarding claims 6 and 9, does not teach that said reflective film comprises a polymeric reflective film at least one of laminated, adhered and applied to said inner or exterior surface of said substrate and regarding claims 7 and 10 does not teach that said reflective film comprises an all polymer thin film multilayer high reflective mirror comprising multiple coextrusion of many plastic layers to form a highly reflective mirror.

Regarding claims 6 and 9, Wheatley et al teaches (see Figure 1) that a reflective film is a polymeric reflective film at least one of laminated, adhered and applied to said exterior surface of said substrate and regarding claims 7 and 10 Wheatley et al teaches that said reflective film comprises an all polymer thin film multilayer high reflective mirror comprising multiple coextrusion of many plastic layers to form a highly reflective mirror

as shown in Figure 1 and as described in column 6, lines 65-68, column 7, lines 45-68, column 11, lines 61-68 and column 12, lines 1-11.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the polymeric film of Wheatley et al for the reflective element of Schmidt in view of Gillich et al in order to provide for a reflective element which will not corrode or flake.

Response to Arguments

4. Applicant's arguments filed 22 January 2007 have been fully considered but they are not persuasive.

The Applicant argues that the protective layer 101 of Gillich et al is a hard coat as discussed and distinguished in the background section of the present invention. The Applicant further argues that the hard coat of Gillich is disclosed as having a thickness less than 1×10^{-9} millimeters and thus such a hardcoat is not providable as a thin flexible sheet as disclosed and claimed in the present invention.

In response to this argument, the Applicant is reminded that an inherency argument was presented with respect to the flexible glass sheet as taught by Gillich. The reasoning for a finding of inherency was that the glass sheet was seen to be flexible in that the glass sheets thinner than 100 μm (for example, coating 101 in Gillich) show bending properties (i.e., are flexible). When an examiner presents evidence of inherency, the burden shifts to the Applicant to show an unobvious difference (see MPEP 2112). However, the Applicant has not provided any rebuttal in regard to the

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finding of inherency. Furthermore, the Examiner has reviewed the background section of the specification of the Applicant's invention and can find no reasoning or evidence distinguishing the hard coat of Gillich from the Applicant's claimed invention.

The Applicant further argues that Gillich et al discloses providing a rolled substrate (such as via immersion, spraying, vaporization, or sputtering) via a continuous coating process. Further, the Applicant contends that there is no disclosure or suggestion in Gillich et al of a thin flexible glass sheet that has an attaching surface that is opposed to and adhered to a polymeric substrate surface such as claimed in claim 1 of the present invention.

In response to this argument, the Examiner maintains that element 101 which is being read as the partially flexible glass sheet must have some surface, which is attached or joined to some other surface. For example in Figure 1 of Gillich et al coating 101 is attached to other layers 102. Therefore, whether the flexible glass sheet is provided by a continuous coating process or via rolled sheet is irrelevant in regard to the recited claimed language, which only requires that the partially flexible glass sheet have an attaching surface opposed to and adhered to another surface. Clearly, the 101 coating of Gillich must have some attaching surface in order for it to be adhered to another opposing surface, (i.e., other layers or a substrate layer) in order to provide for the device as shown. Therefore, the Examiner maintains that the Gillich et al reference provides the teaching of a partially flexible glass sheet have an attaching surface opposed to and adhered to another surface so as to provide the anti-abrasion sheet as recited in claim 1.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alessandro Amari whose telephone number is (571)272-2306. The examiner can normally be reached on Monday-Friday 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephone B. Allen can be reached on (571) 272-2434. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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02 April 2007

Alessandro Amari
ALESSANDRO AMARI
PRIMARY PATENT EXAMINER